IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
WRIT PETITION NO.5644 OF 2005
WITH
CIVIL APPLICATION NO.182 OF 2006

Kendriya Vihar (2) Co-op. Hsg. Society Ltd. ...Petitioner.
V/s.
Jt.Registrar, Co-op.Societies, (CIDCO) & Ors. ...Respondents.

Mr.A.K.Tripathy i/b R.P.Pandey for the Petitioner.
Ms.M.P.Thakur, A.G.P. for the Respondent No.1.
Shri M.R.Phul for Respondent No.2.

CORAM: B.H.MARLAPALLE &
J.H.BHATIA, JJ.
DATE : 14th November, 2006.

P.C.:

1. We have heard Mr.Tripathy, the learned counsel appearing for the petitioner-society who is facing a recovery proceeding under Section 101 of the Maharashtra Co-operative Societies Act, 1960 at the instance of the respondent no.2. It appears that an application has been filed before the respondent no.1 who has initiated recovery proceeding under Section 101 of the Act raising the preliminary issue regarding the jurisdiction to entertain the application and unless that issue is decided, proceeding could not proceed further is the contention raised before us by Mr.A.K.Tripathy. He, therefore, contends that unless the preliminary issue is decided by the Respondent No.1, he has no powers to

proceed further and more so, when civil suit is pending.

2. We have perused the scheme of Section 101 of the Act and we are satisfied that when the recoveries by the co-operative housing society are in respect of arrears and its dues, it is not necessary that the opposite party from whom dues are sought to be recovered is a member of such a society. And, therefore, the preliminary point raised by the petitioner before the respondent no.1 is untenable. The respondent no.2 is at the first instance a society registered under the Act though it is a federation and the Petitioner is also a society registered under the Act. The issue raised by the petitioner before the respondent no.1 is a frivolous issue and the application filed by the respondent no.2 is required to be decided expeditiously as per law.

3. The petition is rejected summarily.

4. The Civil Application No.182 of 2006 does not survive and the same stands disposed off.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)